

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	P-24-CR-338
)	
JOSE MANUEL XITHE-XITHE)	

**FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY
PLEA BEFORE THE UNITED STATES MAGISTRATE JUDGE**

The District Court referred this matter to the magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) for administration of guilty plea and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On the 20th day of November, 2024, this cause came before the undersigned U.S. Magistrate Judge for Guilty Plea and Allocution of the Defendant **JOSE MANUEL XITHE-XITHE**¹ on Count **ONE** of the **INDICTMENT** filed herein charging him with a violation of Title 8 U.S.C. § 1326(a). The Defendant signed a written consent to plead before the Magistrate Judge. The Court conducted the proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, and finds:

a) That the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a U.S. Magistrate Judge subject to final approval and imposition of sentence by the District Court.

b) That the Defendant pled guilty to the **INDICTMENT** without a written plea agreement. Any oral agreements were stated into the record by the parties. **The parties stated to the Court that this may be an expedited plea.**

c) That the Defendant is fully competent and capable of entering an informed plea,² that

¹An Interpreter was present and interpreted the proceedings for the Defendant.

²The Defendant was admonished as to the following possible applicable statutory penalty range:
8 USC § 1326(a) - not more than 2 years' imprisonment, not more than 1 year supervised release, a fine not to exceed \$250,000.00, and a \$100.00 mandatory special assessment; or

8 USC § 1326(b)(1) - if the Defendant was previously convicted of 3 or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), not more than 10 years' imprisonment, not more than 3 years' supervised release, a fine not to exceed \$250,000.00, and a \$100.00 mandatory special assessment; or

8 USC § 1326(b)(2) - if the Defendant was previously convicted of an aggravated felony, not more than 20 years' imprisonment, not more than 3 years' supervised release, a fine not to exceed \$250,000.00, and a \$100.00 mandatory special assessment.

the Defendant is aware of the nature of the charges and the consequences of the plea,³ and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.⁴

IT IS THEREFORE, the recommendation of the undersigned U.S. Magistrate Judge that the District Court accept the guilty plea of the Defendant **JOSE MANUEL XITHE-XITHE** and that **JOSE MANUEL XITHE-XITHE** be finally adjudged guilty of that offense.

The United States District Clerk shall serve a copy of this Proposed Findings of Fact and Recommendation on all parties electronically. In the event that a party has not been served by the Clerk with this Report and Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is ORDERED to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the Magistrate Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar the party from a de novo determination by the District Court. Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation contained in this report within fourteen (14) after being served with a copy shall bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court, except upon grounds of plain error or manifest injustice.

SIGNED this 20th day of November, 2024.

A handwritten signature in black ink, appearing to read "David B. Fannin", written over a horizontal line.

DAVID B. FANNIN
UNITED STATES MAGISTRATE JUDGE

³The Defendant testified that he has discussed with his attorney, prior to the date of this plea, the adverse immigration consequences of pleading guilty to a felony offense and he wished to continue with his plea.

⁴The Government presented an oral Factual Basis.